

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.55 OF 2015

Rajesh S/o Bapurao Chavan
Age: 25 years, occu: Education,
R/o Shindakhed, Tq. Mahur
Dist. Nanded

Petitioner

Versus

1. The State of Maharashtra
through Secretary,
Revenue & Forest Department,
Mantralaya, Mumbai

2 The District Collector,
Nanded Tq. & Dist. Nanded

Respondents

Mrs.Uma S. Bhosale advocate for the petitioner
Mr.S.S.Tope, GP for Respondents

CORAM : R.M. BORDE &
P.R. BORA, JJ

Dated : 7th January, 2015.

ORAL JUDGMENT

(Per : R.M. Borde, J)

1 Rule. Rule made returnable forthwith. Heard finally with the consent of the parties.

2 The petitioner is objecting to the order dated 12.7.2012 issued by respondent No.2, rejecting his request for issuance of a project affected persons' certificate.

3 It is not a matter of dispute that, the petitioner is the owner of land to the extent of 1 H 50 R, which has been acquired by the State, for public purpose in the year 2009. The petitioner tendered an application to the respondent No.2 requesting for issuance of certificate of project affected person. However, his application has been turned down on the ground that, after acquisition of the property, petitioner remained owner of land to the extent of 0.5 R and as such, in view of the Policy formulated by the Government on 17.4.2006, in respect of issuance of certificate, the petitioner is not entitled to claim the certificate. As per the policy formulated by the State Government, such of those project affected persons whose total land to the extent of 100% is acquired are only held entitled to claim Project Affected Persons Category (PAP category) certificate. It is the contention of the respondents that, since potkharab land to the extent of 0.5 R remained with the petitioner, he cannot claim certificate that he belongs to project affected persons category.

4 On perusal of the 7/12 extract, page No.20 presented by the petitioner, it is observed that, the petitioner owned land to the extent of 1.58 Hectors, whereas after acquisition of the property, a portion to the extent of 0.5R remained with the petitioner. It is also not in dispute that, the area remained with the petitioner is

Potkharab, which is practically not useful for any purpose.

5 In the circumstances, it shall have to be held that, the total land belonging to the petitioner has been acquired and as such he does not fall within the exception provided under the Government Policy formulated on 17.4.2006. This aspect of the matter has not been considered by respondent No.2 and the request for issuance of certificate was rejected. In the facts and circumstances of the case, we are of the opinion that the claim of the petitioner ought to have been considered favourably by the respondent No.2 and that he is entitled to receive a certificate certifying that he is a person belonging to projected affected persons category..

6 In view of the above, the order passed by respondent No.2 dated 12.7.2012 is quashed and set aside and respondent No.2 is directed to issue certificate to the petitioner as requested by him as expeditiously as possible and preferably within a period of four weeks from today.

7 Rule is accordingly made absolute.

(P.R. BORA, J)

(R.M.BORDE, J)